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Letter dated 30 November 1998 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the text of a letter dated 30 November 1998 from the Minister for Foreign Affairs of the Republic of Iraq, Mr. Mohamed Saïd Al-Sahaf, which describes the acts of aggression committed by the United States of America against Iraq, in flagrant violation of the Charter of the United Nations and of all the norms of international law, and invites the Security Council to convene a meeting to consider this serious matter.

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

ANNEX

Letter dated 30 November 1998 from the Minister for Foreign Affairs of Iraq addressed to the President of the Security Council

I have the honour to refer to my letter to you dated 19 October 1998 (S/1998/965), in which the Government of the Republic of Iraq drew your attention to the grave threats which the statements by senior officials of the United States Government posed to the security and territorial integrity of Iraq, in flagrant violation of the Charter of the United Nations and all the norms of international law. It has now become clear that the United States Government has followed up its statements by organizing large-scale acts of aggression which over a period of several days provoked serious concern throughout the world as well as resentment at the formidable display of military power mounted by the United States of America, which openly threatened to use its most destructive weapons to destroy all of Iraq, without any regard for the fate that would befall the millions of Iraqis if such weapons were used or for the harmful consequences which its aggression would have for international peace and security and for the stability of the region and the world. In recent years, Iraq has been the victim of a series of acts of aggression by the United States of America, including the enforcement of no-fly zones in the north and south of Iraq and the bombing of the country on 17 and 27 March 1991 and on 3 and 4 September 1996.

In seeking to justify these acts of aggression, the United States Government has used spurious pretexts and claimed that it was enforcing compliance with the resolutions of the Security Council, even as it impeded the proper and lawful implementation of these same resolutions. Moreover, the calls made by the United States Government in the statements by its senior officials are in total violation of the letter and spirit of the resolutions of the Security Council concerning Iraq. In response to a question asked by a journalist from the daily newspaper Al-Hayat, of 25 October 1998, the Secretary-General of the United Nations, Mr. Kofi Annan, confirmed these conclusions when he declared that what certain Governments wanted to do was not covered by the resolutions of the Security Council.

After the plans of the United States Government, which had wanted to launch a new military attack against Iraq, had been dashed by the agreement concluded between Iraq and the United Nations, the true intentions of the United States began to show through in the statements made by the senior United States officials. The aim was not to secure compliance with the resolutions of the Security Council, as the United States Government had claimed during the entire period during which it was mobilizing its military forces, but rather to kill civilians and destroy Iraq's industrial, defence and security infrastructure in order to destabilize the country internally, which would have permitted the United States Government to put into effect its plan to overthrow the Government of Iraq.

I wish to draw attention in particular to the statement made by the President of the United States of America on 15 November 1998 in which he openly called for the overthrow of the legitimate Government of Iraq and revealed that

in recent years the United States had increased its support for the forces of change in Iraq and had established a free Iraq radio station whose broadcasts covered the entire country. He added that, in collaboration with the Congress, the Government would intensify its efforts to implement recently passed legislation concerning the liberation of Iraq.

In the summary he gave on 16 November 1998, the spokesman of the United States Department of State, Mr. James Rubin, confirmed that the United States Administration was determined to pursue its policy of aggression, stating that the Government was focusing on providing political support to the opposition; that Congress had authorized the Administration to arm the opposition and give it the necessary funds; and that it would seek to obtain a firmer commitment on the part of the opposition groups and would work with Congress to look at some of the ideas put forward by those groups and join in their efforts.

Mr. Rubin also said that in his statement, the President of the United States had referred to implementation procedures that would make it possible to apply the current containment policy, whose main elements are the maintenance of the no-fly zones and of the most severe sanctions regime in history and the intensification of collaboration with the opposition. Moreover, the Assistant Secretary of State for Middle Eastern Affairs, Mr. Martin Indyk, stated that the United States was seeking above all to help the Iraqi opposition to organize its ranks and to avoid any premature operation, adding that the Government did not wish to undertake a premature operation that would result in many deaths and would be ineffective, as it had tried that in the past and did not wish to repeat it. Lastly, he said that giving arms to the Iraqi opposition fell within the category of long-range efforts.

As you well know, the United States has already committed the following acts of aggression:

(a) On 8 March 1991, United States forces bombed the third air defence unit, using Cruise missiles;

(b) On 17 January 1993, United States forces bombed the al-Nada civilian facilities using Cruise missiles, which caused considerable damage and a very heavy loss of life;

(c) On 7 April 1991, the United States imposed a no-fly zone in northern Iraq above latitude 36° N by military force. This was a unilateral, illegal and illegitimate measure that bore no relationship to the relevant Security Council resolutions;

(d) On 17 April 1991, the President of the United States, Mr. Bush, decided to send airborne and land forces of the coalition countries into northern Iraq. To transport these troops and matériel directly by air, those countries had to build an airport in the Iraqi town of Sarsank;

(e) On 27 August 1992, a second no-fly zone was imposed over southern Iraq, south of latitude 32° N. The zone was later extended to latitude 33° N. The decisions concerning the no-fly zones were not based on any Security Council resolution;

(f) On 27 June 1993, United States forces bombed Iraqi intelligence services using Cruise missiles;

(g) On 3 and 4 September 1996, United States forces committed another act of military aggression using Cruise missiles. The attacks were aimed at military and civilian sites in various parts of Iraq, particularly Baghdad.

The above-mentioned acts of aggression, threats and statements by the United States are in flagrant violation of many established principles and norms of international law, as shown by the following data.

1. Principles of non-recourse to the threat or use of force

These positions on the part of the United States Government and its behaviour and constant threats to use force against Iraq are in violation of Article 2, paragraph 4, of the Charter, which states:

> "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations."

This ban, which is considered to be the cornerstone of the international system established by the Charter of the United Nations, has become a principle recognized as a peremptory rule that may not be violated under any circumstances.

The United States flagrantly violated its customary and treaty obligations based on this principle when it resorted to the threat of force and actually used force against the territorial integrity and independence of another State, namely, Iraq. It did so:

(a) By carrying out military air and sea attacks against Iraq;

(b) By having United States fighter aircraft make thousands of sorties that violated Iraqi airspace and by imposing the two no-fly zones in northern and southern Iraq;

(c) By following a constant and stated policy of recourse to force aimed at changing the regime in Iraq;

(d) By carrying out aggression and making constant threats to resort to military force.

Recourse to the threat or use of force against Iraq without the authorization of the Security Council constitutes an act of aggression under General Assembly resolution 3314 (XXIX) of 14 December 1974 on the definition of aggression, which is certainly regarded as a customary international norm recognized by the majority of States and by international law.

That the United States has violated the rules of international law is also confirmed on the basis of the Declaration on Principles of International Law

concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which was adopted by consensus in General Assembly resolution 2625 (XXV) of 24 October 1970. The International Court of Justice, in the judgment which it rendered in the case of Nicaragua v. United States of America in 1986, deemed that Declaration to be a codification of the rules of international law and thus binding on all States. The Declaration stated in that connection:

> Every State has the duty to refrain in its international relations from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States. ...
>
> Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination ...
>
> Every State has the duty to refrain from organizing, instigating ... acts of civil strife or terrorist acts in another State ...

2. Principle of non-interference in the domestic affairs of States

The principle of non-interference in the domestic affairs of another State is an internationally recognized principle of customary law, particularly when the means of interference is the use of force.

The International Court of Justice recognized in the judgment which it rendered in the above-mentioned dispute that the principle of non-interference was the right of every sovereign State to conduct its affairs without foreign interference and that respect for territorial integrity between States was an essential foundation of international relations. International law demands respect for territorial integrity.

The Court noted that this principle was contained in most of the declarations adopted by international organizations and conferences, particularly the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adopted in General Assembly resolution 2131 (XX) of 1975, and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. The Court considers this Declaration, which comments on the principles of the Charter, to be a source of obligation, as stated above. The Declaration stipulates that:

> No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

3. The principle of sovereign equality

The principle of sovereign equality, in addition to being an established customary rule, was affirmed in Article 2, paragraph 1, of the Charter of the United Nations, which states: "The Organization is based on the principle of the sovereign equality of all its Members."

This principle was clearly explained in the above-mentioned Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which states that: "All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

(a) States are juridically equal;

(b) Each State enjoys the rights inherent in full sovereignty;

(c) Each State has the duty to respect the personality of other States;

(d) The territorial integrity and political independence of the State are inviolable;

(e) Each State has the right freely to choose and develop its political, social, economic and cultural system;

(f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States."

In the light of the foregoing, there is no doubt that the acts committed by the United States constitute a violation of the practices and norms of international law. These acts of aggression by the United States are aimed simply at achieving the political objectives of that State, whose claims that its acts are intended to force Iraq to comply with the relevant resolutions of

the Security Council are in fact no more than pretexts to justify its aggression against Iraq and its flagrant interference in Iraq's internal affairs.

We urge all Member States of the United Nations to denounce these acts and practices of aggression by the United States against Iraq and call upon the Security Council to assume its responsibility under the Charter and to request the United States to refrain from any action against the State and people of Iraq and from any threat against the security, sovereignty and territorial integrity of Iraq.

It goes without saying that the Republic of Iraq fully reserves the right to hold the United States fully responsible for its acts of aggression and the consequences thereof and to demand appropriate compensation.

I request that you convene a meeting of the Security Council to consider this grave matter with the attention it deserves and I should be grateful if you would have the text of the present letter circulated as a document of the Security Council.

(Signed) Mohamed Said AL-SAHAF
Minister for Foreign Affairs